

1 UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF NEW YORK

3 BERNADENE M. FISK,

4 Plaintiff,

5 v.

6 NORTHSTAR LOCATION SERVICES,
7 LLC,

8 Defendant.
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) **Case No.: 1:12-CV-0812 (NAM/DRH)**

) **COMPLAINT AND DEMAND FOR**
) **JURY TRIAL**

) **(Unlawful Debt Collection Practices)**
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)

10 **COMPLAINT**

11 BERNADENE M. FISK ("Plaintiff"), by her attorneys, KIMMEL & SILVERMAN,
12 P.C., allege the following against NORTHSTAR LOCATION SERVICES, LLC. ("Defendant"):
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14 **INTRODUCTION**

15 1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15
16 U.S.C. § 1692 *et seq.* ("FDCPA").
17

18 **JURISDICTION AND VENUE**

19 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states
20 that such actions may be brought and heard before "any appropriate United States district court
21 without regard to the amount in controversy," and 28 U.S.C. § 1331 grants this court original
22 jurisdiction of all civil actions arising under the laws of the United States.
23

24 3. Defendant conducts business in the State of New York, and as such, personal
25 jurisdiction is established.

5. Plaintiff is a natural person, who resides in Voorheesville, New York.

7. Defendant is a debt collection company with its corporate headquarters located at Genesee Street, Cheektowaga, NY 14225.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

10. At all relevant times, Defendant was attempting to collect an alleged consumer debt from Plaintiff, related to a Chase Bank credit card.

12. As Plaintiff has no business debt, the debt sought by Defendant could only have been for personal purposes.

15. On several occasions, Defendant called Plaintiff at least five times in a day.

1 16. On or around April 13, 2012, Plaintiff's counsel sent Defendant written
2 correspondence, advising Defendant of Plaintiff's representation by counsel, and further
3 demanding Defendant cease and desist all communications with Plaintiff. A true and correct
4 copy of Plaintiff's April 13, 2012 letter is attached hereto as Exhibit "A".

5 17. Defendant received and signed this correspondence on or around April 18, 2012.
6 A true and correct copy of the US Certified Mail Return Receipt for Plaintiff's letter is attached
7 hereto as Exhibit "B".

8 18. Despite the receipt of Plaintiff's cease and desist letter, Defendant continued
9 calling Plaintiff through May of 2012.
10

11 19. Defendant's communications with Plaintiff was harassing, abusive and unfair.
12

13 **COUNT I**
14 **DEFENDANT VIOLATED § 1692c(a)(2) OF THE**
15 **FAIR DEBT COLLECTION PRACTICES ACT**

16 20. Section 1692c(a)(2) of the FDCPA prohibits debt collectors from communicating
17 with an alleged debtor in connection with the alleged debt if the debt collector knows the
18 consumer is represented by an attorney with respect to such debt.

19 21. Defendant violated § 1692c(a)(2) of the FDCPA when it repeatedly attempted to
20 contact Plaintiff via telephone, despite receiving a Cease and Desist letter Plaintiff's attorneys,
21 notifying it that Plaintiff was represented by counsel.

22 **COUNT II**
23 **DEFENDANT VIOLATED § 1692c(c) OF THE**
24 **FAIR DEBT COLLECTION PRACTICES ACT**

25 22. Section 1692c(c) of the FDCPA requires that debt collectors cease
communications with alleged debtors, if the consumer notifies the debt collector in writing that

1 the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease
2 further communication.

3 23. Defendant violated § 1692c(c) by repeatedly attempting to establish telephone
4 contact with Plaintiff, despite receiving the Cease and Desist letter from Plaintiff's counsel on or
5 around April 18, 2012.

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8 **COUNT III**
9 **DEFENDANT VIOLATED § 1692d OF THE**
10 **FAIR DEBT COLLECTION PRACTICES ACT**

11 24. Section 1692d of the FDCPA prohibits debt collectors from engaging in
12 harassing, oppressive, or abusive conduct in their attempts to collect an alleged consumer debt.

13 25. Defendant violated § 1692d of the FDCPA when repeatedly and continuously
14 placed telephone calls to Plaintiff's telephones, including such calls after Plaintiff's counsel had
15 sent a letter advising Defendant of her representation, and demanding the calls cease, and when it
16 engaged in other harassing conduct.

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18 **COUNT IV**
19 **DEFENDANT VIOLATED § 1692d(5) OF THE**
20 **FAIR DEBT COLLECTION PRACTICES ACT**

21 26. Section 1692d(5) of the FDCPA specifically enumerates repeatedly causing a
22 telephone to ring with intent to annoy, abuse, or harass as a violation.

23 27. Defendant violated § 1692d(5) of the FDCPA when it caused Plaintiff's
24 telephones to ring repeatedly and continuously with the intent to annoy or harass Plaintiff.
25

COUNT V
DEFENDANT VIOLATED § 1692f OF THE
FAIR DEBT COLLECTION PRACTICES ACT

42. Section 1692f of the FDCPA prohibits debt collectors from using unfair or unconscionable means to collect or attempt to collect a debt.

43. Defendant violated section 1692f of the FDCPA when it called Plaintiff repeatedly and continuously, and when it continued to call Plaintiff after receiving a cease and desist letter and being advised that Plaintiff was represented by counsel.

WHEREFORE, Plaintiff, BERNADENE M. FISK, respectfully pray for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for its violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, BERNADENE M. FISK, demands a jury trial in this case.

DATED: May 15, 2012

1
2 DATED: 05/16/12

KIMMEL & SILVERMAN, P.C.

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